

SENATE BILL 14

E4

11r1002

By: **Senator Gladden**

Introduced and read first time: January 14, 2011

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2011

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Race–Based Traffic Stops, Strip Searches, and Body Cavity**
3 **Searches – Reporting Requirements**

4 FOR the purpose of requiring certain law enforcement officers to record certain
5 information pertaining to traffic stops, strip searches, and body cavity searches;
6 requiring certain law enforcement agencies to report certain information to the
7 Maryland ~~Justice~~ Statistical Analysis Center (MJAC MSAC); requiring the
8 Police Training Commission to develop a certain format and guidelines and a
9 standardized format for the reporting of certain data; requiring the Police
10 Training Commission to develop a certain model policy; requiring the ~~MJAC~~
11 MSAC to analyze certain data based on a methodology developed in conjunction
12 with the Police Training Commission; requiring the ~~MJAC~~ MSAC to make
13 certain reports to the General Assembly, the Governor, and law enforcement
14 agencies; requiring law enforcement agencies to adopt certain policies regarding
15 race–based traffic stops, strip searches, and body cavity searches for certain
16 purposes; requiring the ~~MJAC~~ MSAC to report to the Police Training
17 Commission law enforcement agencies that fail to comply with certain reporting
18 requirements; requiring certain actions following a report on the failure of a law
19 enforcement agency to comply; providing for the application of this Act; defining
20 certain terms; providing for the termination of this Act; and generally relating
21 to law enforcement procedures and traffic stops, strip searches, and body cavity
22 searches.

23 BY adding to
24 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 25–113
 2 Annotated Code of Maryland
 3 (2009 Replacement Volume and 2010 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article – Transportation**

7 **25–113.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 9 MEANINGS INDICATED.

10 (2) “BODY CAVITY” MEANS THE STOMACH OR RECTAL CAVITY OF
 11 A MALE OR FEMALE INDIVIDUAL AND THE VAGINA OF A FEMALE INDIVIDUAL.

12 (3) “BODY CAVITY SEARCH” MEANS A PHYSICAL INTRUSION INTO
 13 A BODY CAVITY TO DETERMINE THE PRESENCE OF A WEAPON OR A
 14 CONTROLLED DANGEROUS SUBSTANCE CONCEALED IN THE BODY CAVITY.

15 (4) “CONTROLLED DANGEROUS SUBSTANCE” HAS THE MEANING
 16 STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.

17 ~~(2)~~ (5) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY
 18 THAT IS LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE.

19 ~~(3)~~ (6) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON
 20 WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND
 21 WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY.

22 ~~(4)~~ (7) “MARYLAND JUSTICE ANALYSIS CENTER” MEANS THE
 23 CENTER OPERATED BY THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL
 24 JUSTICE AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK STATISTICAL
 25 ANALYSIS CENTER” MEANS THE RESEARCH, DEVELOPMENT, AND EVALUATION
 26 COMPONENT OF THE GOVERNOR’S OFFICE OF CRIME CONTROL AND
 27 PREVENTION.

28 ~~(5)~~ (8) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN
 29 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
 30 ESTABLISHED UNDER § 3–202 OF THE PUBLIC SAFETY ARTICLE.

31 (9) (I) “STRIP SEARCH” MEANS AN OBSERVATION OF THE
 32 UNCLOTHED BODY OF AN INDIVIDUAL TO DETERMINE THE PRESENCE OF A
 33 WEAPON OR CONTROLLED DANGEROUS SUBSTANCE.

1 **(II) “STRIP SEARCH” INCLUDES A VISUAL INSPECTION OF A**
2 **BODY CAVITY.**

3 **~~(6)~~ (10) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
4 **“TRAFFIC STOP” MEANS ANY INSTANCE WHEN A LAW ENFORCEMENT OFFICER**
5 **STOPS THE DRIVER OF A MOTOR VEHICLE AND DETAINS THE DRIVER FOR ANY**
6 **PERIOD OF TIME FOR A VIOLATION OF THE MARYLAND VEHICLE LAW.**

7 **(II) “TRAFFIC STOP” DOES NOT INCLUDE:**

- 8 1. **A CHECKPOINT OR ROADBLOCK STOP;**
- 9 2. **A STOP OF MULTIPLE VEHICLES DUE TO A**
10 **TRAFFIC ACCIDENT OR EMERGENCY SITUATION REQUIRING THE STOPPING OF**
11 **VEHICLES FOR PUBLIC SAFETY PURPOSES; ~~OR~~**
- 12 3. **A STOP BASED ON THE USE OF RADAR, LASER, OR**
13 **VASCAR TECHNOLOGY; OR**
- 14 4. **A STOP BASED ON THE USE OF LICENSE PLATE**
15 **READER TECHNOLOGY.**

16 **(B) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION, THIS**
17 **SECTION DOES NOT APPLY TO A LAW ENFORCEMENT AGENCY THAT, ON OR**
18 **BEFORE JULY 1, 2001, ENTERED INTO AN AGREEMENT WITH THE UNITED**
19 **STATES DEPARTMENT OF JUSTICE THAT REQUIRES IT TO COLLECT DATA ON**
20 **THE RACE OR ETHNICITY OF THE DRIVERS OF MOTOR VEHICLES STOPPED.**

21 **(C) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE**
22 **MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:**

23 **(1) A MODEL FORMAT FOR THE EFFICIENT RECORDING OF DATA**
24 **REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ON AN ELECTRONIC**
25 **DEVICE, OR BY ANY OTHER MEANS, FOR USE BY A LAW ENFORCEMENT AGENCY;**

26 **(2) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY**
27 **USE AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED BY ITS LAW**
28 **ENFORCEMENT OFFICERS FOR USE IN COUNSELING AND IMPROVED TRAINING;**

29 **(3) A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT**
30 **AGENCY SHALL USE IN REPORTING DATA TO THE MARYLAND ~~JUSTICE~~**
31 **STATISTICAL ANALYSIS CENTER UNDER SUBSECTION (E) OF THIS SECTION;**
32 **AND**

1 (4) A MODEL POLICY AGAINST RACE-BASED TRAFFIC STOPS AND
2 STRIP SEARCHES AND BODY CAVITY SEARCHES THAT A LAW ENFORCEMENT
3 AGENCY CAN USE IN DEVELOPING ITS POLICY IN ACCORDANCE WITH
4 SUBSECTION (G) OF THIS SECTION.

5 (D) EACH TIME A LAW ENFORCEMENT OFFICER MAKES A TRAFFIC STOP
6 OR PERFORMS A STRIP SEARCH OR A BODY CAVITY SEARCH, THAT OFFICER
7 SHALL REPORT THE FOLLOWING INFORMATION TO THE LAW ENFORCEMENT
8 AGENCY THAT EMPLOYS THE OFFICER USING THE FORMAT DEVELOPED BY THE
9 LAW ENFORCEMENT AGENCY UNDER SUBSECTION (C)(1) OF THIS SECTION:

10 (1) THE DATE, LOCATION, AND TIME OF THE STOP, STRIP
11 SEARCH, OR BODY CAVITY SEARCH;

12 (2) THE APPROXIMATE DURATION OF THE STOP, STRIP SEARCH,
13 OR BODY CAVITY SEARCH;

14 (3) THE TRAFFIC VIOLATION OR VIOLATIONS ALLEGED TO HAVE
15 BEEN COMMITTED THAT LED TO THE STOP, STRIP SEARCH, OR BODY CAVITY
16 SEARCH;

17 (4) WHETHER A SEARCH WAS CONDUCTED AS A RESULT OF THE
18 STOP;

19 (5) IF A SEARCH WAS CONDUCTED, THE REASON FOR THE
20 SEARCH, WHETHER THE SEARCH WAS CONSENSUAL OR NONCONSENSUAL,
21 WHETHER THE PERSON WAS SEARCHED, AND WHETHER THE PERSON'S
22 PROPERTY WAS SEARCHED;

23 (6) WHETHER ANY CONTRABAND OR OTHER PROPERTY WAS
24 SEIZED IN THE COURSE OF THE SEARCH;

25 (7) WHETHER A WARNING, SAFETY EQUIPMENT REPAIR ORDER,
26 OR CITATION WAS ISSUED AS A RESULT OF THE STOP;

27 (8) IF A WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR
28 CITATION WAS ISSUED, THE BASIS FOR ISSUING THE WARNING, SAFETY
29 EQUIPMENT REPAIR ORDER, OR CITATION;

30 (9) WHETHER AN ARREST WAS MADE AS A RESULT OF EITHER
31 THE STOP OR THE SEARCH;

32 (10) IF AN ARREST WAS MADE, THE CRIME CHARGED;

1 (11) THE STATE IN WHICH THE STOPPED VEHICLE IS REGISTERED;

2 (12) THE GENDER OF THE DRIVER;

3 (13) THE DATE OF BIRTH OF THE DRIVER;

4 (14) THE STATE AND, IF AVAILABLE ON THE DRIVER'S LICENSE,
5 THE COUNTY OF RESIDENCE OF THE DRIVER; AND

6 (15) THE RACE OR ETHNICITY OF THE DRIVER AS:

7 (I) ASIAN;

8 (II) BLACK;

9 (III) HISPANIC;

10 (IV) WHITE; OR

11 (V) OTHER.

12 (E) (1) A LAW ENFORCEMENT AGENCY SHALL:

13 (I) COMPILE THE DATA DESCRIBED IN SUBSECTION (D) OF
14 THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT
15 REQUIRED UNDER SUBSECTION (C)(3) OF THIS SECTION; AND

16 (II) SUBMIT THE REPORT TO THE MARYLAND ~~JUSTICE~~
17 STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING
18 CALENDAR YEAR.

19 (2) A LAW ENFORCEMENT AGENCY DESCRIBED IN SUBSECTION
20 (B) OF THIS SECTION SHALL SUBMIT TO THE MARYLAND ~~JUSTICE~~ STATISTICAL
21 ANALYSIS CENTER COPIES OF REPORTS IT SUBMITS TO THE UNITED STATES
22 DEPARTMENT OF JUSTICE IN LIEU OF THE REPORT OTHERWISE REQUIRED
23 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

24 (F) (1) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER
25 SHALL ANALYZE THE ANNUAL REPORTS OF LAW ENFORCEMENT AGENCIES
26 SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION BASED ON A
27 METHODOLOGY DEVELOPED IN CONSULTATION WITH THE POLICE TRAINING
28 COMMISSION.

1 **(2) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER**
2 **SHALL SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL**
3 **ASSEMBLY AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE,**
4 **AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.**

5 **(G) (1) EACH LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY**
6 **AGAINST RACE-BASED TRAFFIC STOPS AND STRIP SEARCHES AND BODY CAVITY**
7 **SEARCHES THAT IS TO BE USED AS A MANAGEMENT TOOL TO PROMOTE**
8 **NONDISCRIMINATORY LAW ENFORCEMENT AND IN THE TRAINING AND**
9 **COUNSELING OF ITS LAW ENFORCEMENT OFFICERS.**

10 **(2) THE POLICY SHALL:**

11 **(I) PROHIBIT THE PRACTICE OF USING AN INDIVIDUAL'S**
12 **RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO INITIATE A TRAFFIC STOP,**
13 **STRIP SEARCH, OR BODY CAVITY SEARCH; BUT**

14 **(II) MAKE CLEAR THAT THE POLICY MAY NOT BE**
15 **CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO**
16 **MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL**
17 **THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.**

18 **(3) THE POLICY SHALL REQUIRE THE LAW ENFORCEMENT**
19 **AGENCY TO PERIODICALLY REVIEW DATA COLLECTED BY ITS LAW**
20 **ENFORCEMENT OFFICERS UNDER SUBSECTION (D) OF THIS SECTION AND TO**
21 **REVIEW THE ANNUAL REPORT OF THE MARYLAND ~~JUSTICE~~ STATISTICAL**
22 **ANALYSIS CENTER FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.**

23 **(H) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE**
24 **REPORTING PROVISIONS OF THIS SECTION, THE MARYLAND ~~JUSTICE~~**
25 **STATISTICAL ANALYSIS CENTER SHALL REPORT THE NONCOMPLIANCE TO THE**
26 **POLICE TRAINING COMMISSION.**

27 **(2) THE POLICE TRAINING COMMISSION SHALL CONTACT THE**
28 **LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH**
29 **THE REQUIRED REPORTING PROVISIONS.**

30 **(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH**
31 **THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER BEING**
32 **CONTACTED BY THE POLICE TRAINING COMMISSION, THE MARYLAND ~~JUSTICE~~**
33 **STATISTICAL ANALYSIS CENTER AND THE POLICE TRAINING COMMISSION**
34 **JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE**
35 **LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2011. It shall remain effective for a period of 2 years and, at the end of May 31,
3 2013, with no further action required by the General Assembly, this Act shall be
4 abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.